

## **§ 313.81**

subpart does not apply to the collection of delinquent debts from the wages of federal employees from their federal employment. Federal pay is subject to the federal salary offset procedures set forth in 5 U.S.C. 5514 and other applicable laws.

### **§ 313.81 Notice.**

At least 30 days before the initiation of garnishment proceedings, the Director will send, by first class mail to the debtor's last known address, a written notice informing the debtor of:

(a) The nature and amount of the debt;

(b) The FDIC's intention to initiate proceedings to collect the debt through deductions from the debtor's pay until the debt and all accumulated interest penalties and administrative costs are paid in full;

(c) An explanation of the debtor's rights as set forth in § 313.82(c); and

(d) The time frame within which the debtor may exercise these rights. The FDIC shall retain a stamped copy of the notice indicating the date the notice was mailed.

### **§ 313.82 Debtor's rights.**

The FDIC shall afford the debtor the opportunity:

(a) To inspect and copy records related to the debt;

(b) To enter into a written repayment agreement with the FDIC, under terms agreeable to the FDIC; and

(c) To the extent that a debt owed has not been established by judicial or administrative order, to request a hearing concerning the existence or amount of the debt or the terms of the repayment schedule. With respect to debts established by a judicial or administrative order, a debtor may request a hearing concerning the payment or other discharge of the debt. The debtor is not entitled to a hearing concerning the terms of the proposed repayment schedule if these terms have been established by written agreement.

### **§ 313.83 Form of hearing.**

(a) If the debtor submits a timely written request for a hearing as provided in § 313.82(c), the FDIC will afford the debtor a hearing, which at the FDIC's option may be oral or written.

## **12 CFR Ch. III (1-1-09 Edition)**

The FDIC will provide the debtor with a reasonable opportunity for an oral hearing when the Director determines that the issues in dispute cannot be resolved by review of the documentary evidence, for example, when the validity of the claim turns on the issue of credibility or veracity.

(b) If the FDIC determines that an oral hearing is appropriate, the time and location of the hearing shall be established by the FDIC. An oral hearing may, at the debtor's option, be conducted either in person or by telephone conference. All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor. All telephonic charges incurred during the hearing will be the responsibility of the agency.

(c) In cases when it is determined that an oral hearing is not required by this section, the FDIC will accord the debtor a "paper hearing," that is, the FDIC will decide the issues in dispute based upon a review of the written record.

### **§ 313.84 Effect of timely request.**

If the FDIC receives a debtor's written request for hearing within 15 business days of the date the FDIC mailed its notice of intent to seek garnishment, the FDIC shall not issue a withholding order until the debtor has been provided the requested hearing, and a decision in accordance with § 313.88 and § 313.89 has been rendered.

### **§ 313.85 Failure to timely request a hearing.**

If the FDIC receives a debtor's written request for hearing after 15 business days of the date the FDIC mailed its notice of intent to seek garnishment, the FDIC shall provide a hearing to the debtor. However, the FDIC will not delay issuance of a withholding order unless it determines that the untimely filing of the request was caused by factors over which the debtor had no control, or the FDIC receives information that the FDIC believes justifies a delay or cancellation of the withholding order.

### **§ 313.86 Hearing official.**

A hearing official may be any qualified individual, as determined by the